

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

In re: §
§ CASE NO. 19-40438
BAYMARK SHEER STRENGTH §
HOLDCO, LLC § Chapter 11
§
Debtor. §

THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

In re: §
§ CASE NO. 19-00000
SHEER STRENGTH LABS, LLC §
§ Chapter 11
Debtor. §

MOTION FOR ENTRY OF AN ORDER
DIRECTING JOINT ADMINISTRATION OF CASES

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COME NOW, Debtors Baymark Sheer Strength Holdco, LLC¹ (“**Sheer Holdco**”) and Sheer Strength Labs, LLC (“**Sheer OpCo**”) (collectively, the “**Debtors**”), and file this, their *Motion for Entry of Order Directing Joint Administration of Cases* (“**Motion**”) and, in support of same, would respectfully show as follows:

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s Federal Tax Identification Number, include: Baymark Sheer Strength Holdco, LLC (5676) and Sheer Strength Labs, LLC (9093). The location of the Debtors’ service address is: 5700 Granite Parkway, Suite 435, Plano, TX 75024.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

II. PROCEDURAL BACKGROUND

2. On February 18, 2019 (“**Petition Date**”), the Debtors commenced with this Court their voluntary cases under Chapter 11 of Title 11 of the United States Code (“**Bankruptcy Code**”). Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors continue to manage and operate their businesses as debtors-in-possession.

3. Sheer Holdco is the parent company and one hundred percent (100%) owner of the membership interests in Sheer OpCo. The Debtors’ operations consist of selling products in the sports nutrition, dietary supplement and general wellness industry. Sheer OpCo uses only the highest-quality, most effective ingredients available, carefully formulated and manufactured for optimum results. Sheer OpCo uses third-party contract manufacturers in the United States, and can truthfully state that its products are “Made in the USA” (with a global supply chain). The Debtors’ products are primarily sold on Amazon. Multiple products have achieved best seller ranking on Amazon, and have been featured on Amazon’s homepage.

4. Only one month after completing the acquisition by its current ownership group in June 2017, the Debtors’ operations experienced a disruption with a third-party manufacturer which caused them to run out of inventory and lose their top Amazon ranking. During this time period, the Debtors agreed with their lender, Merion Investment Partners III (“**Merion**”), to reduce their interest payments to six percent (6%) per year (\$50,000.00/month), conduct weekly lender update meetings, and rebuild their product offering by launching new products and hiring of a new Chief

Executive Officer. The Debtors entered into a forbearance agreement with Merion, and made all of the payments in the amount of \$50,000 per month as required by the agreement.

5. Since the change in management, the Debtors have launched four new products (with four more to launch within thirty days), relaunched six others, and updated their processes and procedures to ensure no further disruptions in their Amazon business. Additionally, the Debtors landed an additional one hundred (100) store retail chain, re-launched their website, and increased their Walmart.com presence, resulting in more than \$300,000.00 in new channel revenue. As an example, the Debtors' sales for January 2019 were 26% higher than the same period in 2018, with positive operating cash flow. Furthermore, the Debtors are in final negotiations for a roll out of multiple products at a major retailer with over one thousand (1,000) doors nationwide at the time of this filing.

6. Despite the Debtors' increase in revenue and receiving all of the payments required by the forbearance agreement, shortly after the conclusion of the forbearance period, Merion sent the Debtors a notice of foreclosure on February 12, 2019 and swept the Debtors' bank account(s) on Friday, February 15, 2019. These events forced the Debtors to seek relief under Chapter 11.

7. No creditors' committee has been appointed in either case by the United States Trustee. Furthermore, no trustee or examiner has been requested or appointed in either Chapter 11 cases.

III. RELIEF REQUESTED

8. The Debtors seek entry of an Order ("**Order**"): (a) directing procedural consolidation and joint administration of these Chapter 11 cases; and (b) granting related relief, including the ability to add later filed cases to these Chapter 11 cases. The Debtors request that one file and one docket be maintained for all of the jointly administered cases under the case of

Sheer Holdco (the parent company of Debtor Sheer OpCo) and that the cases be administered under the case number assigned to Sheer Holdco, Case No. 19-40438-11 (the “**Lead Case**”).

9. The Debtors request that the official caption to be used by all parties in all pleadings in the jointly administered cases be as follows (the “**Simplified Caption**”):

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FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

In re:	§
	§ CASE NO. 19-40438
BAYMARK SHEER STRENGTH	§ Chapter 11
HOLDCO, LLC, <i>et al.</i>	§
	§ (Jointly Administered)
Debtors.	§

10. The Debtors further request that this Court order that the foregoing caption satisfies the requirements set forth in Section 342(c)(1) of the Bankruptcy Code.

IV. BASIS FOR RELIEF

11. Bankruptcy Rule 1015(b) provides, in pertinent part, that “[i]f . . . two or more petitions are pending in the same court by or against . . . a debtor and an affiliate, the court may order a joint administration of the estates.” Fed. R. Bankr. P. 1015. Debtor Sheer OpCo is an “affiliate” – as that term is defined in Section 101(2) of the Bankruptcy Code – of Debtor Sheer Holdco. Accordingly, the Bankruptcy Code and Bankruptcy Rules authorize the Court to grant the relief requested herein.

12. Given the integrated nature of the Debtors' operations, joint administration of these Chapter 11 cases will provide significant administrative convenience without harming the substantive rights of any party in interest. Many of the motions, hearings, and orders that will be involved in these Chapter 11 cases will affect both Debtors. The entry of an order directing joint administration of these Chapter 11 cases will reduce fees and costs by avoiding duplicative filings

and objections. Joint administration will, therefore, facilitate a more efficient administrative process, unburdened by various procedural difficulties anticipated in the administration of both related Chapter 11 cases. The Bankruptcy Court (and also the Clerk) will also be relieved of the burden of entering duplicate orders and keeping duplicate files. Finally, supervision of the administrative aspects of the cases by the United States Trustee will be simplified.

13. Joint administration of these cases will not adversely affect the rights of the Debtors' respective creditors because the relief sought is purely procedural. Each Debtor's assets will remain segregated in its individual Estate, and each creditor will be instructed to file claims against only the Debtor or Debtors allegedly liable therefore. In fact, parties-in-interest will be better able to preserve their rights because they will be entitled to receive notices in both of the Debtors' respective proceedings. Lastly, joint administration will likely enhance the potential distribution to creditors by reducing the cost associated with administering many separate cases and thereby preserving the assets of the Estates.

14. By reason of the foregoing, the best interests of the Debtors and their creditors would be served by joint administration of the above-captioned cases.

V. LIMITED NOTICE OF THIS MOTION

15. Debtors will provide notice of this Motion to (a) the United States Trustee for the Eastern District of Texas; (b) the holders of the twenty (20) largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel for the Debtors' senior secured lender; and (d) any party that has requested notice pursuant to Bankruptcy Rule 2002.

16. Any party receiving this notice may request a copy of the Motion from the undersigned counsel. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

VI. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Debtors respectfully request entry of an Order granting (a) the relief requested herein and (2) such other and further relief as the Court deems just and proper.

Dated: February 18, 2019

Respectfully submitted,

SINGER & LEVICK, P.C.

By: /s/ Michelle E. Shriro
Michelle E. Shriro
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ATTORNEYS FOR DEBTORS

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document will be electronically mailed to the parties that are registered or otherwise entitled to receive electronic notices in this case pursuant to the Electronic Filing Procedures in this District, and that a true and correct copy has been served on the parties listed below via first class mail, postage prepaid, on the 19th day of February 2019.

U.S. Trustee Office of the U.S. Trustee 110 N. College Ave., Suite 300 Tyler, TX 75702	Vitamin Shoppe 300 Harmon Meadow Blvd. Secaucus, NJ 07094
CA Dept. of Revenue Payroll Taxes 450 N. Street Sacramento, CA 95814	American Express Plum Customer Care PO Box 981535 El Paso, TX 79998-1535
Catalyst Nutraceuticals 1075 Windward Ridge Parkway Suite 120 Alpharetta, GA 30005	CA Dept. of Revenue Sales Tax 450 N. Street Sacramento, CA 95814
US Treasury - Payroll 1500 Pennsylvania Ave. NW Washington, DC 20220	Vitamin World USA 3500 Sunrise Highway Bldg. 100 / Suite 210 Great River, NY 11739
American Express Platinum Customer Care PO Box 981535 El Paso, TX 79998-1535	MossAdams 8750 N. Central Expressway Suite 300 Dallas, TX 75231
Amazon Marketing Services Accounts Receivable PO Box 24651 Seattle, WA 98124-0651	Greenleaf Accounting Services 9300 Falls Road Girard, PA 16417-8626

/s/ /Michelle E. Shriro
Michelle E. Shriro